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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,456	11/03/2000	Edward Balassanian	294518009US1	6385

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EXAMINER

HU, JINSONG

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/706,456

Applicant(s)

BALASSANIAN, EDWARD

Examiner

Jinsong Hu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-17 are presented for examination.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 13 is rejected under 35 U.S.C. 102(e) as being anticipated by Megiddo et al. (US 6,662,236).
4. As per claim 13, Megiddo teaches the invention as claimed including a computer-implemented method for processing developer-provided code to be distributed to requesters when requested [col. 1, lines 9-14], comprising:
  - receiving base code and developer-specified characteristics of the base code from a developer [col. 3, lines 35-45];
  - evaluating the base code to determine whether it satisfies the developer-specified characteristics [col. 3, lines 46-63; col. 5, lines 12-21];

notifying the developer whether the received base code satisfies the developer-specified characteristics [col. 5, lines 21-29], and

when target code that derives from the received base code is distributed to a requester, compensating the developer [col. 3, lines 10-11; col. 5, lines 30-31].

5. Claim 15 is rejected under 35 U.S.C. 102(e) as being anticipated by Balassanian (US 6,324,685).

6. As per claim 15, Balassanian teaches the invention as claimed including a computer-based method for providing code for computer systems [col. 1, lines 5-7], comprising:

providing a collection of intermediate code [42, 44, Fig. 3; col. 4, lines 59-61; col. 5, lines 1-14];

receiving a request for target code from a requester, the request including requester-specified characteristics that the target code should satisfy [col. 3, lines 44-56; col. 7, lines 10-13];

selecting intermediate code that matches the requester-specified characteristics [col. 3, line 57 – col. 4, line 3];

transforming the selected intermediate code to target code in accordance with the requester-specified characteristics [52, Fig. 3; col. 4, lines 61-65; col. 5, line 15 – col. 6, line 6; col. 7, lines 14-17]; and

sending the target code to the requester [col. 6, lines 29-30].

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balassanian (US 6,324,685) in view of Megiddo et al. (US 6,662,236).

9. As per claim 1, Balassanian teaches the invention substantially as claimed including a computer-implemented method for providing code to computer systems [col. 2, lines 1-8], comprising:

translating the received base code into an intermediate code [42, 44, Fig. 3; col. 4, lines 59-61; col. 4, lines 1-14];

receiving a request for target code from a requester, the request including requester-specified characteristics that the target code should satisfy [col. 3, lines 44-56; col. 7, lines 10-13];

selecting intermediate code that matches the requester-specified characteristics [col. 3, line 57 – col. 4, line 3];

transforming the selected intermediate code to target code in accordance with the requester-specified characteristics [52, Fig. 3; col. 4, lines 61-65; col. 5, line 15 – col. 6, line 6; col. 7, lines 14-17]; and

sending the target code to the requester [col. 6, lines 29-30].

10. Balassanian does not specifically teach the step of receiving base code and developer-specified characteristics of the base code from a developer; evaluating the intermediate code to determine whether the received base code satisfies developer-specified characteristics and notifying the developer the results of evaluation.

11. However, Megiddo on the other hand teach the step of receiving base code and developer-specified characteristics of the base code from a developer [col. 3, lines 36-46]; evaluating the code to determine whether the received base code satisfies developer-specified characteristics and notifying the developer the results of evaluation [col. 3, lines 10-11 & 46-63; col. 5, lines 21-29]. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Balassanian and Megiddo because doing so would reduce software development time and costs by enable the system obtain the best base code based on the comparison [i.e., price, test result etc.] of all received base code [Megiddo, col. 1, lines 61-63]. One of ordinary skill in the art would have been motivated to modify Balassanian's system with Megiddo's software development step in Balassanian's system to improve the functionality of the system.

12. As per claim 2, Balassanian teaches the base code is source code and the target code is executable code [col. 4, lines 59-65].

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13. As per claim 3, Megiddo teaches the evaluating includes determining whether the developer is authorized to submit base code [col. 3, lines 46-55; col. 4, lines 41-49].

14. As per claims 4 and 5, Megiddo teaches the developer-specified characteristics identify a functional category for the code [col. 3, lines 46-55].

15. As per claim 6, Balassanian teaches the transforming includes optimizing the intermediate code in accordance with the requester- specified characteristics [col. 5, line 66 – col. 6, line 6].

16. As per claim 7, Balassanian teaches compiling the intermediate code to produce executable target code in accordance with the requester-specified characteristics [52, Fig. 3; col. 4, lines 61-65; col. 5, line 15 – col. 6, line 6; col. 7, lines 14-17].

17. As per claims 8-11, Megiddo teaches the step of billing for providing the target code to the requester [col. 3, lines 21-23].

18. As per claim 12, Balassanian teaches the transforming of the intermediate code uses beads of a Strings-based operating environment [col. 3, lines 29-37].

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19. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Megiddo et al. (US 6,662,236) as applied to claim 13 above, in view of Balassanian (US 6,324,685).

20. As per claim 14, Megiddo teaches the step of receiving a request for target code from a requester, the request including requester-specified characteristics that the target code should satisfy and sending the target code to the requester [col. 2, line 60 – col. 3, line 7; col. 4, lines 34-40]. Megiddo does not specifically teach the step of selecting intermediate code that matches the requester-specified characteristics and transforming the selected intermediate code to target code in accordance with the requester-specified characteristics.

21. However, Balassanian on the other hand teaches Megiddo does not specifically teach the step of selecting intermediate code that matches the requester-specified characteristics and transforming the selected intermediate code to target code in accordance with the requester-specified characteristics [col. 4, lines 59-65]. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Megiddo and Balassanian because doing so would increase overall system performance and efficiency by converting intermediated code that already cached in the system to the target code for different requesters. One of ordinary skill in the art would have been motivated to modify Megiddo's system with Balassanian's format converting step to improve the performance of entire system.



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22. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balassanian (US 6,324,685) as applied to claim 15 above.

23. As per claims 16 and 17, Balassanian teaches the invention substantially as claimed in claim 15. Balassanian does not specifically teach the selection rule. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a selection rule in Balassanian's system because it is a well-known method in the art for document or data retrieving. One of ordinary skill in the art would have been motivated to modify Balassanian's system with a selection rule to improve the integrity of the system.

### ***Conclusion***

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Apte et al. (US 6,662,236) discloses a system for runtime object binding in scripting;

Brewer (US 6,295,645) discloses a system for downloading application;

Logan (US 6,601,018) discloses a software testing system; and

Benson (US 6,334,118) discloses a software rental system.

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25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (703) 306 – 5932.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee, can be reached on (703) 305-8498. The fax number for Group 2100 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 305-3900.

Jinsong Hu

March 8, 2004

  
ZARNI MAUNG  
PRIMARY EXAMINER